

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of: )  
)  
Amendment of Section 73.202(b), )  
Table of Allotments, )  
FM Broadcast Stations, )  
(Iron Mountain, Michigan) )

MM Docket No. 95-29  
RM - 8596

DOCKET FILE COPY ORIGINAL

To: Chief, Allocations Branch  
Policy & Rules Division, Mass Media Bureau

COMMENTS & COUNTERPROPOSAL  
OF  
NEGAUNEE MINERS RADIO

Comes now Negaunee Miners Radio ("Negaunee"), by Counsel, pursuant to §1.415 of the Commission's Rules and the Notice of Proposed Rule Making ("NPRM"), DA 95-335 (released March 2, 1995), and hereby respectfully submits these Comments & Counterproposal regarding the Commission's proposal in the above-captioned Rule Making proceeding.

Background

1. According to the NPRM, Superior Media Group, Inc. ("SMG") has requested the allotment of Channel 294A to Iron Mountain, Michigan, as that community's third local FM broadcast service. However, Negaunee believes that the public interest would be best served if Channel 294A is allotted to the community of Negaunee, Michigan as that community's first local FM broadcast service. Commission policy supports Negaunee's proposal over that of SMG.

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## Counterproposal

2. Negaunee requests that Channel 294A be allotted to Negaunee, Michigan, rather than Iron Mountain, Michigan. The community of Negaunee is more deserving of the allotment of Channel 294A since it currently has no local AM or FM radio service. In comparison, allotment of Channel 294A to Iron Mountain would result in that community's third local FM radio service. Commission policy clearly favors the allotment of a first local radio service over that of a third local radio service. See, *Revision of FM Policies and Procedures, 90 FCC 2d. 88 (1982).*<sup>1</sup>

3. The community of Negaunee qualifies as a community worthy of an FCC radio allotment. Negaunee has its own elected government. Negaunee's residents elect a Mayor and a City Council. The City Council appoints a City Manager. Also, Negaunee has its own Police Department, Fire Department and Post Office. According to 1992 census figures, the population of Negaunee is 4,918.<sup>2</sup> The U.S. Census Bureau

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<sup>1</sup> When the Commission must choose between conflicting proposals, a decision should be based upon the following allotment criteria as set forth in *Revision of FM Policies and Procedures, supra*:

- (1) first full-time aural service;
- (2) second full-time aural service;
- (3) first local service; and
- (4) other public interest matters.

<sup>2</sup> The foregoing information about the community of Negaunee was obtained from the Ishpeming-Negaunee Area Chamber of Commerce. Their telephone number is (906) 486-4841.

also lists Negaunee as a separate community. Based upon the foregoing, Negaunee is a community for FCC allotment purposes. See, e.g., *Hannibal, Ohio*, 6 FCC Rcd. 2144, 69 RR 2d 113 (MMB 1991).

4. From a technical standpoint, the allotment of Channel 294A to Negaunee, Michigan, is in compliance with Section 73.202 of the Commission's Rules regarding current spacing requirements. See, attached *Technical Statement of Jefferson G. Brock of Graham Brock, Inc.* According to the Technical Statement, Channel 294A may be allotted to Negaunee without the imposition of a site restriction at reference coordinates North Latitude 46 - 30 - 18 and West Longitude 87 - 36 - 24. From this location, the 3.16 mV/m city-grade contour will encompass the entire city limits of Negaunee.

#### Statement of Interest

5. Negaunee hereby states that, in the event Channel 294A is allotted to Negaunee, Michigan, it will file an FCC Form 301 Application with the Commission for the issuance of an FM Construction Permit for full-time service on Channel 294A at Negaunee, Michigan.

#### Conclusion

WHEREFORE, the above premises considered, Negaunee respectfully urges the Commission to ACCEPT these Comments & Counterproposal and AMEND §73.202(b) of the Rules, Table of

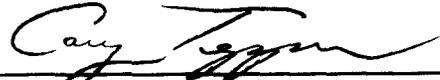
Assignments, as follows:

| Community    | Present | Proposed |
|--------------|---------|----------|
| Negaunee, MI | ---     | 294A     |

Respectfully submitted,

**NEGAUNEE MINERS RADIO**

By:

  
Cary S. Tepper

Its Attorney

**Meyer, Faller, Weisman & Rosenberg**  
4400 Jenifer Street, N.W.  
Suite 380  
Washington, D.C. 20015

(202) 362-1100

April 24, 1995

# GRAHAM BROCK, INC.

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BROADCAST TECHNICAL CONSULTANTS

**COMMENTS AND COUNTERPROPOSAL**  
**RE PERMIT #25-29**  
**REGULATED STATION RADIO**  
**ALLOT CHANNEL 29.4A**  
**REGULATED, MICHIGAN**  
**April 1995**

**TECHNICAL EXHIBIT**

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10 SYLVAN DRIVE, SUITE 26 • P.O. BOX 24466 • ST. SIMONS ISLAND, GA 31522  
912-638-8028 • 202-393-5133 • FAX 912-638-7722

**COMMENTS AND COUNTERPROPOSAL**  
**MM DOCKET #95-29**  
**NEGAUNEE MINERS RADIO**  
**ALLOT CHANNEL 294A**  
**NEGAUNEE, MICHIGAN**  
**April 1995**

**TECHNICAL STATEMENT**

1. This Technical Statement and attached exhibits were prepared on behalf of Negaunee Miners Radio ("NMR") seeking to allot Channel 294A to Negaunee, Michigan. This proposal is being filed in response to the Notice of Proposed Rulemaking filed by Superior Media Group, Inc ("Superior") seeking the allotment of Channel 294A to Iron Mountain, Michigan. Due to the minimum distance spacing requirements contained in §73.207 of the Commission's regulations, the NMR proposal is mutually exclusive with the Superior request and is therefore being filed as a counterproposal in MM Docket #95-29.

2. Negaunee, Michigan, is located in central Marquette County, Michigan, near the shores of Lake Superior. According to the 1990 Census, Negaunee has a population of 4,741 persons. Negaunee presently has no AM or FM facilities.

3. Channel 294A can be allotted to Negaunee, Michigan, without the imposition of a site restriction at reference coordinates North Latitude 46° 30' 18" and West Longitude 87° 36' 24". Attached as Exhibit #1 is a usable area study for Channel

294A at Negaunee, Michigan, which demonstrates the proposed allotment meets the Commission's minimum distance separation requirements to all licensed, applied for or proposed facilities. Exhibit #1 also demonstrates where a transmitter site for the channel can be located. From this location, Negaunee will receive 3.16 mV/m coverage. Exhibit #2 is a \$73.207 spacing analysis which demonstrates the proposed new channel complies with the Commission's minimum distance spacing requirements.<sup>1</sup>

4. Therefore, NMR requests the following amendment to the Commission's FM Table of Allocations:

| <b>Negaunee, Michigan</b> |                        |
|---------------------------|------------------------|
| <b><u>Present</u></b>     | <b><u>Proposed</u></b> |
| None                      | 294A                   |

**PUBLIC INTERESTS**

5. The allocation of Channel 294A to Negaunee, Michigan, would provide this community with its first locally licensable radio facility. By comparison, the proposed allocation of Channel 294A to Iron Mountain, Michigan, as requested by Superior would provide that community with its third FM allocation. Also licensed to Iron Mountain is AM station WMIQ, 1450 kHz. The proposed new facility at Negaunee, Michigan, would provide

1) With the exception of the proposed allotment of Channel 294A at Iron Mountain, Michigan, as requested by Superior Media Group, Inc.

service to 63,596 persons within a theoretical 1.0 mV/m contour from the proposed reference site.<sup>2</sup> Therefore, NMR requests the allocation of Channel 294A to Negaunee, Michigan, rather than to Iron Mountain, Michigan.

6. When Channel 294A is allocated to Negaunee, Michigan, NMR will file, on a timely basis, an application for construction permit, seeking authority to construct a new full-time FM radio station on Channel 294A. Upon a grant of that application, NMR will expeditiously construct the facility to provide first local service to the community of Negaunee, Michigan.

7. The foregoing Technical Statement and attached exhibits were prepared on behalf of Negaunee Miners Radio by Graham Brock, Inc., its Technical Consultants. All information contained herein is true and accurate to the best of our belief and knowledge. All data relating to FM facilities and proposals was extracted from the NTIA database, as updated February 24, 1995. We assume no liability for errors or omissions in that database which may be adverse to the requests contained herein.

2) Population figures based on 1990 Census figures from PL 94-171 files.



ALLOCATION STUDY FOR NEW FM STATION NEGAUNEE, MICHIGAN  
USING CITY CENTER COORDINATES AS REFERENCE

|                                    |  |                        |                 |
|------------------------------------|--|------------------------|-----------------|
| REFERENCE                          |  | CLASS A                | DISPLAY DATES   |
| 46 30 18 N                         |  |                        | DATA 02-24-95   |
| 87 36 24 W                         |  | Current rules spacings | SEARCH 04-20-95 |
| ----- CHANNEL 294 -106.7 MHz ----- |  |                        |                 |

| CALL<br>TYPE   | CH#<br>LAT | CITY<br>LNG   | STATE<br>PWR | BEAR'<br>HT | D-KM<br>D-Mi | R-KM<br>R-Mi | MARGIN<br>(KM) |
|--|------------|---------------|--------------|-------------|--------------|--------------|----------------|
| AD294  | 294A       | Negaunee      | MI           | 0.0         | 0.0          | 115.0        | -115.00        |
| AD   | 46 30 18   | 87 36 24      | 0.000 kw     | OM          | 0.0          | 71.5         |                |
| Negaunee Miners Radio  |            |               |              |             |              |              |                |
| * AD294  | 294A       | Iron Mountain | MI           | 205.2       | 84.08        | 115.0        | -30.92         |
| AD   | 45 49 12   | 88 04 06      | 0.000 kw     | OM          | 52.3         | 71.5         |                |
| Superior Media Group<br>>PRM-Canadian Concurrence Required                   |            |               |              |             |              |              |                |
| AP291  | 291C2      | L'Anse        | MI           | 287.8       | 60.27        | 55.0         | 5.27           |
| AP ZCN   | 46 40 03   | 88 21 25      | 50.000 kw    | 150M        | 37.5         | 34.2         |                |
| J B Broadcasting, Inc. BPH-930505MD 930831                                   |            |               |              |             |              |              |                |
| AP291  | 291C2      | L'Anse        | MI           | 299.2       | 67.56        | 55.0         | 12.56          |
| AP CN  | 46 47 52   | 88 22 48      | 50.000 kw    | 150M        | 42.0         | 34.2         |                |
| L'Anse Broadcasting, Inc. BPH-930505MC 930831<br>>Untimely Filed             |            |               |              |             |              |              |                |
| AP291  | 291C2      | L'Anse        | MI           | 293.7       | 68.65        | 55.0         | 13.65          |
| AP CN  | 46 44 57   | 88 25 48      | 50.000 kw    | 16M         | 42.7         | 34.2         |                |
| WSHN, Inc. BPH-930430MA 930831   |            |               |              |             |              |              |                |
| ALOPEN   | 291C2      | L'Anse        | MI           | 293.6       | 70.54        | 55.0         | 15.54          |
| AL N   | 46 45 18   | 88 27 12      | 0.000 kw     | OM          | 43.8         | 34.2         |                |
| MM Docket # 87-331 Window Open 04/26/93 Closed 05/07/93<br>>Effective 6-9-88 |            |               |              |             |              |              |                |
| AL293  | 293C       | Thunder Bay   | ON           | 330.6       | 244.54       | 195.0        | 49.54          |
| AL   | 48 24 30   | 89 14 00      | 0.000 kw     | OM          | 152.0        | 121.2        |                |
| WUPM   | 295C1      | Ironwood      | MI           | 269.7       | 184.72       | 133.0        | 51.72          |
| LI CN  | 46 28 18   | 90 00 43      | 53.000 kw    | 151M        | 114.8        | 82.7         |                |
| Big G Little o, Inc. BLH-880929KA  |            |               |              |             |              |              |                |
| WKPK   | 294C1      | Gaylord       | MI           | 126.2       | 269.17       | 200.0        | 69.17          |
| LI CN  | 45 02 42   | 84 50 44      | 100.000 kw   | 177M        | 167.3        | 124.3        |                |
| Alpine Broadcasting Company BLH-781221AB                                     |            |               |              |             |              |              |                |

CHANNEL 294A SPACING STUDY

\* NOTE : THE PROPOSED ALLOCATION OF CHANNEL 294A AT NEGAUNEE, MI IS MUTUALLY EXCLUSIVE WITH THE PROPOSED ALLOCATION OF THE SAME CHANNEL AT IRON MNT., MI.

EXHIBIT #2

COMMENTS & COUNTERPROPOSAL  
MM DOCKET # 95-29  
NEGAUNEE MINERS RADIO  
ALLOT CHANNEL 294A  
NEGAUNEE, MICHIGAN  
April 1995

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

**AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT**

*State of Georgia )*  
*St. Simons Island ) ss:*  
*County of Glynn )*

**JEFFERSON G. BROCK**, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by Negaunee Miners Radio to prepare the attached Technical Exhibit.

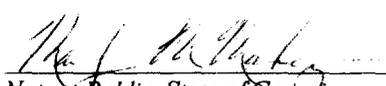
His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.

The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

*This the 21st day of April, 1995.*

  
\_\_\_\_\_  
Jefferson G. Brock  
Affiant

*Sworn to and subscribed before me  
this the 21st day of April, 1995*

  
\_\_\_\_\_  
Notary Public, State of Georgia  
My Commission Expires: September 8, 1995

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 24th day of April, 1995, I have served a copy of the foregoing "Comments & Counterproposal of Negaunee Miners Radio" first-class, postage-prepaid, on the following:

\*John A. Karousos, Chief  
Allocations Branch  
Policy and Rule Division  
Mass Media Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 8322  
Washington, D.C. 20554

Matthew H. McCormick, Esquire  
Reddy, Begley, Martin & McCormick  
1001 22nd Street, N.W.; Suite 350  
Washington, D.C. 20037  
(counsel to Superior Media Group, Inc.)

  
\_\_\_\_\_  
Cary S. Tepper, Esq.

\*denotes Delivery By Hand